MS4 Permit Renewal Meeting

CDPHE: 4300 Cherry Creek Drive S., Denver CO

Sabin/Cleere Rooms, Building A

January 10, 2013

9-11:30 am

Topics

- Updated Program Description Document
- Design Standards for Post Construction water quality control measures
- Post Construction Operations & Maintenance
- Coal Tar-based Asphalt Sealant

<u>Agenda</u>

9 – 9:10 am	Sign in / Introductions
9:10 – 9:30 am	Updated Program Description Document
9:30 – 10:15 am	Design Standards for Post Construction water quality control measures
10:15 – 11:00 am	Post Construction Operations & Maintenance
11:00 – 11:15 am	Coal Tar-based Asphalt Sealant
11:15 – 11:30 am	Summarize ideas

Meeting attendees are encouraged to familiarize themselves with the Supplemental Information as well the targeted permit questionnaire developed by the Division to understand the specific challenges with the current permit language; and to help brainstorm ideas and solutions during permit renewal meetings.

The goal for all permit elements is to have clear expectations, which establish a basic standard of performance for all permittees that are auditable by the Division.

Dial-in access will be provided to all permittees before the meeting. Please contact Michelle DeLaria at 303.692.3615 or <u>Michelle.DeLaria@state.co.us</u> with any questions.

Supplemental Information*

1. Updated Program Description Document

- a. Current Challenges/Observations:
 - The current program description templates submitted to the Division are not a thorough reflection of program requirements and Division expectations.
 - Permittees have submitted program description templates, which were accepted by the Division, yet have been determined during program audits to be in non-compliance.
 - The current permit requires that Permittees submit program modifications for significant changes.
 - There is a lack of clarity in the permit on what must be documented and modified.

b. Goal:

- More efficient and effective program documentation, which will not require the documentation to be submitted to the Division at the beginning of the Permit term, or the submittal of program modifications. Note: If clear, enforceable requirements (i.e., effluent limitations) are not stated in the permit, then those elements must be submitted to the Division and be public noticed. For example, the current permit does not require specific elements or activities in the Public Education program, therefore the permittee must submit its education program and activities to the Division and public notice the program elements.
- c. A Program SWMP is an example of a model.
 - The Permit requirements would guide the development of an MS4 program description document that details compliance for each permit requirement.

2. Design Standards for Post Construction water quality control measures

- a. Current Challenges:
 - The current permit does not have a design standard. The Division has not identified a clear expectation for permanent water quality control measures.
 - Many permittees state in the program description template that UDFCD Volume 3 is used, but
 it is unclear if the permittee implements Volume 3 as a regulatory standard for all the
 requirements in Volume 3 or if Volume 3 is used as optional guidance.
 - Permit audits have noted the some permittee programs allow waivers and variances from requiring the permanent water quality standard stated in the permittee's program template.
 - Additionally it was also noted in permit audits that permittees may be implementing different standards for redevelopment vs. new development even though a variable standard was not stated in the program template.
 - A lack of clear design standard has prevented some permittees from confirming that
 permanent control measures are included on site plans and that permanent control measures
 meeting a performance standard are installed.
 - The current permit does not address projects with phases of development. Specifically, when a completed development phase must be served by permanent water quality control measures.
- b. Goal: Include a design standard and provide clear permit language that corrects the above-identified challenges and provides a clear Division expectation for permanent water quality control measures.
- c. Additional concepts: Should there be a different standard for new vs redevelopment?

3. Post Construction Operations & Maintenance

- a. Current Challenges:
 - Post construction maintenance is variable both in standards, inspection activities and in assuring long term O&M.
 - Some permittee programs have gaps in the various elements that would provide a foundation for long-term O&M (e.g, regulatory mechanism, design standard, plan review, construction verification).
- b. Goal: Provide clear permit language that corrects the above-identified challenges and provides a clear Division expectation for long-term Operations & Maintenance.
- c. Additional concepts to discuss:
 - Adding O&M plan requirements to the permit.
 - Establishing different standards or protocol for existing facilities, and public vs. private facilities.
 - Addressing legacy facilities because some communities add pre-MS4 permit facilities to their post construction program.

4. Coal Tar-based Asphalt Sealant

a. Some facts:

- Coal tar–based asphalt sealant is sold in Colorado
- Coal tar-based asphalt sealant contains poly aromatic hydrocarbons (PAHs), which are considered probable carcinogens.
- Asphalt emulsion asphalt sealant is sold in Colorado and contains a much lower content of PAHs
- Coal tar-based asphalt sealant contains ~70,000 mg of PAHs/kg of sealant
- Asphalt emulsion asphalt sealant contains ~50 mg of PAHs /kg of sealant
- Asphalt sealant abrades and does not stay where it is applied.
- The USGS included Sloan Lake and Cherry Creek Lake in a national sediment study and recorded levels of PAH contamination in the sediments.
- Several cities (mostly MN) have banned coal tar and the State of Washington banned coal tar in 2011.
- The major home improvement retailers do not sell coal tar-based asphalt sealant
- b. Goal: The Division is looking for a dialogue about asphalt sealant use in MS4 permitted areas and potentially addressing coal tar in the next MS4 permit.

c. Additional Information:

- PAH contaminated sediments is considered barrier to proper maintenance of perm BMPs in some areas of the country because concentrations of PAHs have accumulated in detention pond sediment and require dredged sediment to be disposed of as hazardous waste at considerably higher cost (~ 10 times). Please see information from the State of Minnesota: http://www.pca.state.mn.us/index.php/water/water-types-and-programs/stormwater/municipal-stormwater/coal-tar-based-sealcoat-minnesota-local-government-fags.html
- Please see the USGS webpage for additional information on coal tar: http://tx.usgs.gov/coring/allthingssealcoat.html

^{*}Supplemental Information is intended to provide general concepts and commonly encountered challenges with current permit language. It is not intended to be an exhaustive accumulation and description of all specific elements to be addressed in the permit renewal.

Summary

The summary was compiled after the meeting on 1/10/13. The summary is not a verbatim transcript of the meeting and points of potential agreement have not been included because the meeting goal was to share information to facilitate permit drafting, and not to make decisions or to obtain stakeholder commitments.. Bulleted points may not follow the order of actual discussion.

Updated Program Description Document

- The Division's goal is to include clear, enforceable requirements in the Permit, which will be non numeric effluent limits. This will allow a change in the current Program Description Document (PDD) procedures.
- The Public Education/Outreach section of the permit was provided as an example. Currently the
 permit does not include an effluent limitation for this program area. Therefore permittees must
 submit their education programs to the Division for review and approval. The Division discussed
 the concept of providing a list of the public education and outreach activities in the permit (effluent
 limit) from which the permittee can select activities and document the commitment and
 completion of those activities in the PDD.
 - The Division mentioned that the list of activities could include a point or weighting system to provide flexibility and equity among permittees.
 - The Division encouraged permittees to submit ideas for the public education and outreach list for the permit. Submitted ideas include: social media posts, education programs with scouts.
- Feedback from the group indicated that some permittees have concern about how points or weighting could be determined.
- The Division discussed a PDD template that is based on the permit structure (numbering convention).

Design Standards for Post Construction water quality control measures

- The Division discussed the potential for using 100% of water quality capture volume from development, in accordance with UDFCD Volume 3 or equivalent, as the design standard for new development.
- Feedback from the group indicated that attention to the permit wording would be needed to address the following: storm event, disturbed area, impervious area, treatment to the equivalent of the WQCV, onsite/regional BMPs. Permittees had concern about how to account for runoff reduction /infiltration.
- The Division asked the group about options for Redevelopment: same design standard as New development, different standard, same standard with variance option, no standard but submit the program to the Division for review.
- Feedback indicated that a definition for Redevelopment would be needed.
- The Division discussed project phasing, and received feedback that requiring permanent water quality BMPs at the time of project phase completion is difficult for CIP projects.

Post Construction Operations & Maintenance

- Feedback from the group indicated that runoff reduction practices and BMPs on private property in residential areas are hard to track.
- The Division discussed requiring "as builts" for permanent water quality control measures.

• Feedback from the group indicated concern about having site-specific plans and confirmation of the installation, operation, and maintenance of non structural BMPs (e.g., runoff reduction BMPs).

Coal Tar-based Asphalt Sealant – Postponed to next meeting

Other items

- Stakeholders are encouraged to refer to the "What's New in Permitting" tab on the Division's webpage for information about the MS4 permit renewal process and status: http://www.colorado.gov/cs/Satellite/CDPHE-WQ/CBON/1251596763746
- The Division will provide the permit at public notice in accordance with Division Policy, but may
 provide excerpts of proposed permit language during the course of discussion meetings with
 permittees.
- Stakeholders are encouraged to submit ideas and draft wording to Michelle DeLaria at Michelle.Delaria@state.co.us

List of public education activities provided the meeting. Permittee are encouraged to submit ideas for other activities:

Articles in Papers	Booth at Fair	Brochures
Pet Waste Signs	Pet Waste Station	Clean up days (e.g., stream, leaf,
		etc)
School Presentations	Radio Ads	PSAs
TV Program	Tributary Signage	Storm Drain Stencil
Web Page Info	Stormwater hotline	SW fact sheet to com/ ind
Demonstration garden	e-newsletter	Water bill inserts
Haz Waste Collection	Signs at illegal dumping sites	